

Cited as "1 FE Para. 70,372"

Coastal Gas Marketing Company (FE Docket No. 90-19-NG), July 12, 1990.

DOE/FE Opinion and Order No. 408

Order Granting Blanket Authorization to Import and Export Natural Gas,
Including Liquefied Natural Gas, and Granting Intervention

I. Background

On March 21, 1990, Coastal Gas Marketing Company (CGM) filed an application with the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127, for a single new import and export blanket authorization that would supersede its current separate blanket authorizations to import and export natural gas. CGM requests authorization to import up to 600 Bcf and to export up to 150 Bcf of natural gas, including liquefied natural gas (LNG), from and to Canada, Mexico, and other countries, over a two-year term beginning with the date of first import or export.

CGM (formerly ANR Gathering Company) is currently importing gas under a two-year blanket authorization granted in DOE/ERA Opinion and Order No. 178 (Order 178), which expires October 1, 1990.^{1/} Order 178 authorized the importation of a maximum of 100 Bcf of Canadian natural gas. CGM also has authority under DOE/FE Opinion and Order No. 304 (Order 304), to export up to 105 Bcf of natural gas from the U.S. to Mexico over a two-year term beginning on the date of first export.^{2/} To date, no deliveries have been made under Order 304.

CGM, a Delaware corporation with its principal place of business in Houston, Texas, proposes to import and export natural gas and LNG both for its own account as well as for the accounts of others. The customers are expected to include commercial and industrial end-users, and local distribution companies. All sales would be at competitive prices and under contracts of two years or less. CGM states that the specific terms of each sales transaction would be negotiated at arm's length based on the specific needs of its customers and will be structured to adjust to changing market conditions.

CGM intends to utilize existing pipeline and LNG facilities for the processing and transportation of the proposed volumes to be imported and exported, and indicated that it would submit quarterly reports detailing each transaction.

In support of its application, CGM maintains that its proposed imports and exports of natural gas would be consistent with the public interest. In particular, CGM asserts that there is no current domestic need for the proposed exports. Furthermore, gas exports would benefit the states from which supplies are drawn by generating tax and related revenues that would not otherwise be forthcoming, as well as benefit the U.S. by reducing the current trade deficit and creating new markets for surplus domestic gas.

A notice of the application was issued on May 14, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by June 20, 1990.^{3/} A motion to intervene without comment or request for additional procedures was filed by Distrigas Corporation. This order grants intervention to this movant.

II. Decision

The application filed by CGM has been evaluated to determine if the proposed import/export arrangement meets the public interest requirements of section 3 of the NGA. Under section 3, an import or export must be authorized unless there is a finding that it "will not be consistent with the public interest."^{4/} With regard to import authorizations, the determination is guided by the DOE's natural gas import policy guidelines.^{5/} Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. In reviewing natural gas export applications, domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case.

CGM's uncontested import/export proposal, as set forth in the application, is consistent with section 3 of the NGA and the DOE's international gas trade policy. CGM's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under CGM's proposed arrangements, which contemplate individual, short-term sales negotiated in response to the marketplace, transactions would only occur to the extent that producers and sellers can provide spot or short-term volumes, customers need such import/export volumes, and the prices remain competitive. Thus, each transaction must reflect the true value of the commodity being traded, or no gas sales will be made.

In addition, the current domestic gas supply, coupled with the short-term, market-responsive nature of the contracts into which CGM proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, CGM's proposal will further the Secretary of Energy's policy goals of reducing trade

barriers by encouraging market forces to achieve a more competitive distribution of goods between the U.S. and foreign natural gas purchasers and suppliers. Thus, CGM's import/export arrangement will enhance competition in the marketplace.

After taking into consideration all of the information in the record of this proceeding, I find that granting CGM blanket authorization to import up to 600 Bcf and to export up to 150 Bcf of natural gas, including LNG, over a two-year term under contracts with terms of two years or less, beginning on the date of the first delivery of either import or export, is not inconsistent with the public interest and should be approved.^{6/}

ORDER

For the reasons set forth above, under section 3 of the Natural Gas-Act, it is ordered that:

A. Authorization is hereby granted to Coastal Gas Marketing Company (CGM) to import up to 600 Bcf and to export up to 150 Bcf of natural gas, including liquefied natural gas (LNG), over a two-year term beginning on the date of the first import or export.

B. This natural gas or LNG may be imported or exported at any point on the international border where existing facilities are located.

C. Within two weeks after deliveries begin, CGM shall notify the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, 1000 Independence Avenue, S.W. Washington, D.C., 20585, in writing of the date that the first import or export authorized in Ordering Paragraph A above occurs.

D. With respect to the imports and exports authorized by this Order, CGM shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported and/or exported natural gas or LNG have been made, and if so, giving, by month, the total volume of the imports and exports in Mcf and the average price for imports and exports per MMBtu at the international border. The reports shall also provide the details of each import and export transaction, including the country of origin for imports, names of the seller(s), and the purchaser (s), including those other than CGM, estimated or actual duration of the agreement(s), transporter(s), points of entry or exit, market(s) served, and, if applicable, the per unit (MMBtu) demand/commodity charge breakdown of the price, any special contract price adjustment clauses, and any take-or-pay or make-up provisions.

E. The authorizations to import and export natural gas, issued in DOE/ERA Opinion and Order No. 178 and DOE/FE Opinion and Order No. 304, respectively, are vacated effective the date of this order.

F. The motion to intervene filed by Distrigas Corporation is hereby granted, provided that participation of the intervenor shall be limited to matters specifically set forth in its motion to intervene and not herein specifically denied, and that its admission shall not be construed as recognition that it might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., on July 12, 1990.

--Footnotes--

1/ 1 ERA Para. 70,708 (June 29, 1987). On January 20, 1989, ANR Gathering Company changed its name to coastal Gas Marketing Company.

2/ 1 FE Para. 70,207 (March 29, 1989).

3/ 55 FR 20833, May 21, 1990.

4/ 15 U.S.C. Sec. 717b.

5/ 49 FR 6684, February 22, 1984.

6/ Because the proposed importation and exportation of gas will use existing facilities, the DOE has determined that granting this application is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (42 U.S.C. 4321, et seq.) and therefore an environmental impact statement or environmental assessment is not required. See 40 CFR Sec. 1508.4 and 54 FR 12474 (March 27, 1989).